

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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U.S. BANK NATIONAL ASSOCIATION,	:	
Plaintiff,	:	Civil Action No.
	:	14-cv-4703-SJF(GRB)
-against-	:	
	:	<b>NOTICE OF SUN LIFE</b>
SUN LIFE ASSURANCE COMPANY OF	:	<b>ASSURANCE OF CANADA'S</b>
CANADA,	:	<b>MOTION FOR SUMMARY</b>
Defendant.	:	<b>JUDGMENT</b>
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PLEASE TAKE NOTICE that, upon the Declaration of John Bloor dated January 26, 2015 and the exhibits attached hereto, the Memorandum of Law in Support of Defendant Sun Life Assurance Company of Canada's Motion for Summary Judgment, and the Statement of Undisputed Material Facts in Support of Sun Life's Motion for Summary Judgment, Sun Life will move this Court pursuant to Federal Rule of Civil Procedure 56 and Local Rule 56.1 for an order granting summary judgment in favor of Sun Life on three grounds:

- First, the policy at issue – which was applied for and issued to a Delaware insurance trust – was delivered in Delaware and is governed by Delaware law – lacks an insurable interest and is an illegal wagering policy. As a result, the policy runs afoul of the insurable interest and anti-wagering standards established by the Delaware Supreme Court in *PHL Variable Ins. Co. v. Price Dawe 2006 Ins. Trust*, 28 A.3d 1059 (Del. 2011).
- Second, U.S. Bank's affirmative defenses to Sun Life's challenges to the validity of the Policy are not viable as a matter of law.
- Third, Count II of U.S. Bank's Complaint seeking a premium refund in the event the Policy is declared void is not viable in connection with a STOLI policy, which is an illegal contract that is void as against public policy.

Sun Life will move before the Honorable Sandra J. Feuerstein on a date and time to be determined by the Court, at the United States District Court, Eastern District of New York, Long Island Courthouse, 100 Federal Plaza, Central Islip, NY 11722, Courtroom 1010.

PLEASE TAKE FURTHER NOTICE THAT pursuant to Judge Feuerstein rules, opposition papers are due within fourteen (14) days of service of the moving papers, and reply papers are due within seven (7) days of service of the opposition papers, absent agreement to longer dates.

Dated: January 26, 2015

Respectfully submitted,

DRINKER BIDDLE & REATH LLP

By: /s/ John Bloor

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*Attorneys for Defendant Sun Life Assurance  
Company of Canada*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Notice of Motion, the Declaration of John Bloor dated January 26, 2015 and accompanying exhibits, Memorandum of Law in Support of Sun Life Assurance Company of Canada's Motion for Summary Judgment, Statement of Undisputed Material Facts in Support of the Motion, and Proposed Order were served upon the following via U.S. Mail, with courtesy copy via electronic mail, on January 26, 2015:

To: Steven J. Reisman  
Jonathan J. Walsh  
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I further certify that a true and correct copy of the cover letter serving the above documents on opposing counsel was filed with the Court via ECF on January 26, 2015.

Dated: January 26, 2016

/s/ John Bloor  
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